



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

ROBERT ALLEN FERGUSON,

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Plaintiff,

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vs.

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HOLLY SCATURO, *Director*, KIMBERLY  
POHOLCHUK, *B.M.C. Program Director*,  
CYNTHIA HELFF, *B.M.C.*, DR. KELLY  
GOTHARD, DR. GORDON BROWN,  
*Psychologist*, DR. ROZANNA TRASS,  
*Psychologist*, DR. AMY SWAN, *Psychologist*,  
MARIE GEHLE, *Evaluator*, DR. DONNA  
SCHWARTZ-WATTS, *Psychologist*, CAPT.  
FRANK ABNEY, *P.S.O. Supervisor*, GALEN  
SANDERS, *Chief Nursing Administrator*,  
HAROLD ALEXANDER, *R.N.*, CHARLENE  
HICKMAN, *R.N.*, DR. JOHN MCGILL,  
*Director of Department of Mental Health*,  
ALLEN WILSON, *Attorney General*,

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Civil Action No.: 8:16-02319-MGL-JDA

Defendants.

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ORDER ADOPTING THE REPORT AND RECOMMENDATION,  
GRANTING ALLEN WILSON'S MOTION TO DISMISS AND DR. AMY SWAN'S  
MOTION TO DISMISS, AND DISMISSING WITHOUT PREJUDICE THE CLAIMS  
AGAINST THE REMAINING DEFENDANTS FOR FAILURE TO PROSECUTE

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This action arises under 42 U.S.C. § 1983. Plaintiff is proceeding pro se. This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Defendant Allen Wilson's (Wilson) motion to dismiss be granted,

Defendant Dr. Amy Swan's (Swan) motion to dismiss be granted, and the claims against Defendant Charlene Hickman (Hickman) and Defendants Captain Frank Abney, Harold Alexander, Dr. Gordon Brown, Marie Gehle, Dr. Kelly Gothard, Cynthia Helfff, Dr. John McGill, Kimberly Poholchuk, Galen Sanders, Holly Scaturo, Dr. Donna Schwartz-Watts, and Dr. Rozanna Trass (Summary Judgment Defendants) be dismissed under Federal Civil Procedure Rule 41(b) for failure to prosecute. The Magistrate Judge further recommends Hickman's motion to dismiss and the Summary Judgment Defendants' motion for summary judgment be found moot. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); see Fed. R. Civ. P. 72(b).

The Magistrate Judge filed the Report on July 11, 2017, ECF No. 85, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial*

*Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Wilson's motion to dismiss is **GRANTED**, Swan's motion to dismiss is **GRANTED**, and the claims against Hickman and the Summary Judgment Defendants are **DISMISSED WITHOUT PREJUDICE** under Federal Civil Procedure Rule 41(b) for failure to prosecute. Hickman's motion to dismiss and the Summary Judgment Defendants' motion for summary judgment are hereby **RENDERED MOOT** as a result of the dismissal of the claims against Hickman and the Summary Judgment Defendants.

**IT IS SO ORDERED.**

Signed this 2nd day of August 2017 in Columbia, South Carolina.

s/ Mary Geiger Lewis \_\_\_\_\_  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.